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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,676	09/28/2001	Brendan Traw	42390P11771	4988
8791 7590 09/10/2007 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER HUYNH, SON P	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/966,676	TRAW ET AL.	
	Examiner	Art Unit	
	Son P. Huynh	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7-12,18-23 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-12,18-23 and 29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/14/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/18/2007 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 7-12, 18-23, 29-32 have been considered but are moot in view of the new ground(s) of rejection.

Rejections on the claims are analyzed in alternative view of Labeeb as follow.

Claims 2-6, 13-17, and 24-28 have been canceled.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 7-12, 18-23, 29-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Connelly (US 7,020,893).

Regarding claims 1, 12, 23, Connelly discloses:

receiving meta-data broadcast by a server system, the meta-data including description of a plurality of data files currently being broadcasted or to be broadcasted by the server system (see include, but are not limited to, figures 1B, 2, 3, col. 6, line 54-col. 7, line 49);

rating previously broadcasted data files based on meta-data associated with the broadcasted data files, respectively, in response to a content rating table, wherein the content rating table includes at least a rating value and a rating type for broadcasted data files, wherein the rating value is the combination of a relevance value and a

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believability factor, the relevance value corresponding to a likelihood that a user will want to watch the broadcasted data file based on the description of the meta-data and the believability factor is a weighting factor corresponding to the accuracy of past relevance value determinations, and the rating type indicates whether the rating value was generated explicitly based upon prior explicit input from the user or implicitly generated without prior explicit input from the user (see include, but are not limited to, figures 3, 5, 10-15c, 18);

storing previously broadcasted data files meeting a pre-determined ranking threshold in a storage device to create a plurality of stored data files (see include, but are not limited to, col. 7, lines 4-29, col. 12, lines 1-65);

comparing the rankings of the plurality of stored data files to determine a best stored data file;

rating currently broadcasted data files in response to the content rating table;

comparing the ranking of currently broadcasted data files to determine a best currently broadcasted data files;

selecting the best currently broadcasted data file or best stored data file with the highest ranking; and

displaying the selected best currently broadcasted or stored data file automatically on a personalized channel on a display device (see include, but are not limited to, col. 6, line 55-col. 7, line 28, col. 9, line 20-50, col. 10, line 36-col. 11, line 10, col. 12, lines 1-65, col. 20, lines 25-27, col. 21, lines 20-40, col. 25, lines 15-28, figures 14-15c).

Regarding claims 7, 18, 29, Connelly further discloses a currently broadcasted data file is an immediate viewing data file and is automatically selected (e.g., live TV show or current broadcast data file and automatically selected based on meta-data – see include, but are not limited to, col. 7, lines 1-29, col. 12, lines 1-32).

Regarding claims 8, 19, 30, Connelly further discloses if an immediately viewing data file is not selected then a stored file is selected (interpreted as previously recorded/cached data file is subsequently “on demand “ viewing – see include, but are not limited to, col. 7, lines 20-25, col. 12, lines 40-47).

Regarding claims 9, 20, 31, Connelly further discloses if neither an immediate viewing data file or a stored data file is selected, then the currently broadcasted data file with the highest ranking is selected (e.g., selecting highest rating/ranking piece – see include, but are not limited to, col. 10, line 50-col. 11, line 10, col. 11, lines 29-35).

Regarding claims 10, 21, 32, Connelly further discloses displaying the selected data file on a personalized channel on a display device (interpreted as displaying the selected data file/piece on a select channel on a display device at client – col. 7, lines 23-25, col. 12, lines 32-47).

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Regarding claims 11, 22, Connelly further discloses the plurality of data files comprises at least one of video information, graphical information, audio information, multi media information, or textual information (see include, but are not limited to, col. 4, lines 45-57).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 7-12, 18-23, 29-32 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Labeeb et al. (US 2003/0093792).

Regarding claim 1, Labeeb discloses a method, comprising:

receiving meta-data broadcast by a server system, the meta-data including descriptions of a plurality of data files currently being broadcasted or to be broadcasted by the server system (e.g. receiving "attribute information"/program information and the schedule of the television programs broadcast by the broadcast head end, the "attribute information" including program title, channel, category, start time, duration, etc. plurality

of data files currently being broadcasted or to be broadcasted by the broadcast head end – see including, but are not limited to, figure 43, paragraphs 0049-0051, 0074);

rating previously broadcasted data files based on meta-data associated with the broadcasted data files, respectively, in response to user's preferences/profile in personal reference database (e.g., rating stored programs/previously broadcasted programs based on attributes/parameters such as channel, program title, category type, etc. associated with the programs, to determine which one to be maintained in the storage device and which one to be deleted from the storage device- overwriting stored program with the lowest rating first – see include, but is not limited to, paragraphs 0074, 0076, 0085, 0154, 0345-0346, figure 25);

Labeeb further discloses the user preference, user history, and user profile, user explicitly request, etc. are stored in database including tables (see include, but are not limited to, paragraphs 0111-0112, 0155, 0194, 0233, 1547, 1550, 1553-1559, 1651-0674, 1748). The information stored in the database including liking value, degree to which the trait tn is exhibited by program, traitness value, degree of accuracy, explicitly request for program, associate value, viewing habits, confidence value, etc. (see include, but are not limited to, paragraphs 0076-0087, 0091-0093, 0111-0112, 0155, 0214, 0227, 0233, 0267-0299, 0320, 0340, 0345-0346, 0363, 0368, 1292, 1553-1555, 1652-1653, 1661, 1714, 1732, 1748-1749, 1756-1758, 2223). It would have been obvious to one of ordinary skill in the art that the rating content (e.g., including user request, user access history, user preference, etc.) are stored as table, wherein the content rating table includes at least a rating value (e.g., liking value, traitness value,

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degree of accuracy, degree to which the trait t_n is exhibited by program, etc.) and a rating type (e.g., explicitly record request of program with value of 1, or automatically recording based on user preference/history, etc. – paragraph 0223) for the broadcasted data files, wherein the rating value is the combination of a relevance value (e.g., liking value, relevant value for relevant trait, or associative value, etc.) and a believability factor (degree of which the Trait t_n is exhibited by program p , or confidence value, degree of accuracy, etc.- paragraph 0363-0368), the relevance value corresponding to a likelihood that a user will want to watch the broadcasted data file based on the descriptions of the meta data (e.g., program title, category, channel, etc.) and the believability factor is a weighting factor (e.g., weight of confidence value, or degree of accuracy, error, etc.) corresponding to the accuracy of past relevance value determinations, and the rating type indicates whether the rating value was generated explicitly based upon prior explicitly input from the user or implicitly generated without prior explicitly input from the user (e.g., explicitly recording request with value of 1) in order at least to access and retrieve information in user profile, user preference, etc. stored in database easily and effectively.

Labeeb further discloses storing previously broadcasted data files meeting a pre-determined ranking threshold in a storage device to create a plurality of stored data files (e.g. storing/recording the broadcasted program according to user selections or according to predetermined conditions in user preferences/profile— see include, but is not limited to, paragraphs 0104, 0111, 0152-0154);

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Labeeb further discloses ratings all programs stored on storage devices with lowest rating, most preferable program (see include, but is not limited to, paragraph 0154). Thus, it is inherent that the rankings of the plurality of stored data files are compared to determine a best stored data file so that the stored programs are ranked/rated as most preferable program/lowest rating programs – wherein the “best stored data file” is interpreted as most preferable stored program.

Labeeb also discloses:
rating currently broadcasted data files in response to the user preference/profile in personal reference database (see include, but is not limited to, 0152-0155, 0227, 0233);

comparing the rankings of currently broadcasted data files to determine a best currently broadcasted data file (e.g. sorting through incoming program content and displaying best program at the top of the “top ten” lists, or program having attribute information rated highest by preference database to be presented first – see include, but is not limited to, paragraphs 0155, 0233);

selecting the best currently broadcasted data file or best stored data file with the highest ranking (e.g., selecting/sorting the currently broadcast program having attribute information rated highest by reference database to be presented first/ or to be displayed first on “top 10” list – see include, but is not limited to, paragraphs 0155, 0233); and

displaying the selected best currently broadcasted or stored data file automatically on a personalized channel on a display device (automatically displaying the selected currently broadcast program/or stored program on desired channel which is

selected by the user or selected according to personal preference database, on a display device – i.e. television monitor 108 – figures 1, 43, paragraphs 0049, 0053, 0067, 0091, 0155, 0158, 0227, 0233, 0243).

Regarding claim 7, Labeeb in view of Barrett teaches a method as discussed in the rejection of claim 1. Labeeb further discloses a currently broadcasted data file is an immediate viewing data file and is automatically selected (broadly interpreted as automatically select currently broadcast television program (i.e. Seinfeld episode)/news on NBC channel, or any program the user actually watched, etc.– see including, but are not limited to, figures 9A-9c, paragraphs 0049, 0087, 0098, 0158, 0228).

Regarding claim 8, Labeeb in view of Barrett teaches a method as discussed in the rejection of claim 7. Labeeb further discloses if an immediate viewing data file is not selected then a stored data file is selected (broadly interpreted as user change the channel from currently broadcast television program to recorded program - see including, but are not limited to, paragraphs 0049, 0158, figure 43).

Regarding claim 9, Labeeb in view of Barrett teaches a method as discussed in the rejection of claim 8. Labeeb further discloses if neither an immediate viewing data file or a stored data file is selected, then a best currently broadcasted data file with the highest ranking is selected (e.g. broadly interpreted as if neither currently broadcast program (i.e. Seinfeld or NEWS program on the NBC channel, actually watch program, etc.) is

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not selected (for example, the Seinfeld or NEWS program on the NBC channel is not currently available), or a stored data file is selected, then currently broadcast program/data file having attribute information rated highest by preference database to be selected – see including, but are not limited to, paragraphs 0085-0087, 0091, 0093, 0152-0153, 0155, 0227, 0233).

Regarding claim 10, Labeeb in view of Barrett teaches a method as discussed in the rejection of claim 9. Labeeb further discloses the selected data file on a personalized channel on a display device (as a result of user selection of desired channel, the program/content on the selected channel is displayed on a display device such as television monitor 108 – see include, but is not limited to, paragraphs 0049, 0053, 0232, figures 1, 43)

Regarding claim 11, Labeeb in view of Barrett teaches a method as discussed in the rejection of claim 1. Labeeb further discloses the plurality of data files comprises at least one of video information, graphical information, audio information, multimedia information, or textual information (i.e. at least one of television video content, audio content, attribute information, or program guide information – paragraphs 0049, 0051, 0091, 0102, 0199, 0228, 0232).

Regarding claim 12, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 1, and are analyzed as discussed with

respect to the rejection of claim 1. Wherein claimed "processor..." is met by the preferences agent 110 and program source switch; the claimed "communication interface..." is met by interface to the network (i.e. tuner circuitry) that communicate with the network for receiving attribute information/program information from the broadcast headend; apparatus must comprises a storage device (i.e. ROM, RAM, etc.,) coupled to processor, the storage device having a sequence of instructions stored therein (i.e. software programs/applications) so that when executed by the processor cause the processor to perform the functions as discussed in the rejection of claim 1 (see including, but are not limited to, figures 34, 43-44, paragraphs 0149, 0152, 0204-0210, 0232-0243).

Regarding claims 13, 18-22, the additional limitations of the apparatus as claimed correspond to the additional limitations of the method as claimed in claims 7-11, and are analyzed as discussed with respect to the rejections of claims 2-11.

Regarding claims 23, 29-32, the limitations as claimed are directed toward embodying the method of claims 1, 7-10 in "machine-readable medium". It would have been obvious to embody the procedures of Labeeb in view of Barrett as discussed with respect to claims 1, 7-10 in a "machine-readable medium" in order that the instructions could be automatically performed by a processor.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chickering et al. (US 6,831,663 B2) discloses system and process for automatically explaining probabilistic predictions.

Gutta et al. (US 7,231,652 B2) discloses adaptive sample technique for selecting negative examples for artificial intelligence application.

Cragun et al. (US 5,973,683) discloses dynamic regulation of television viewing content based on viewer profile and viewing history.

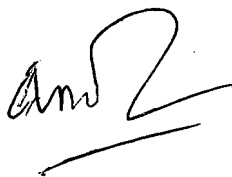
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

July 30, 2007

A handwritten signature in black ink, appearing to read 'Son P. Huynh', with a horizontal line underneath.